S.B.Civil Writ Petition NO.5756/2004

Dhannaram

vs

Sohan Lal & Ors.

DATE OF ORDER : - 17.12.2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. N.L.Choudhary, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order of the trial court dated 24th Nov., 2004 by which the trial court held that the document in question has not been executed on proper stamps. Therefore, the trial court impounded the document and referred the matter to the Collector (Stamps), Hanumangarh for determining the stamp duty as well as penalty, which may be levied upon the said document.

According to learned counsel for the petitioner, the agreement dated 18.1.2003 is not a concluded contract because in that agreement it is mentioned that there will be fresh agreement in case the money is not paid by the non-petitioner by 18.1.2004, the agreement dated

18.1.2003 cannot be said to be a concluded agreement and, therefore, no stamp duty is leviable on the agreement dated 18.1.2003. It is also submitted by learned counsel for the petitioner that without determining whether the agreement dated 18.1.2003 is a concluded agreement or not, the trial court should not have held that the stamp duty is levied on the agreement dated 18.1.2003.

I considered the submissions of learned counsel for the petitioner. The submission of learned counsel for the petitioner appears to be just contrary to the stand taken by the plaintiff-petitioner in the suit. The plaintiff-petitioner on one side seeking enforcement of the agreement dated 18.1.2003 and seeking decree for specific performance of contract dated 18.1.2003 whereas here the petitioner is submitting that the agreement is not a concluded contract. The petitioner cannot be permitted to take such a self-contradictory stand like seeking enforcement of the concluded agreement and at the same time saying that agreement is not concluded.

In view of the above, I do not find any merit in this writ petition. Hence,the writ petition is dismissed.

(Prakash Tatia), J.

c.p.goyal/-